

glutamate salt, pidolate salt, methyl ester and ethyl ester.

Claim 45 (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the member is arginine.

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Rule 26* Claim ~~45~~<sup>46</sup> (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt is arginine pidolate.

Cancel claims 41 to 43 and 55.

REMARKS

Reconsideration of this application is requested in view of the proposed amendments to the claims and the remarks presented herein. Entry of the amendment is requested under the provisions of Rule 116 as it puts the application in condition for allowance or in better condition for appeal.

The claims in the application are claims 40, 44, 46 to 54 and 56 to 58, all other claims having been cancelled.

Claims 40 to 58 were rejected under 35 USC 112, second paragraph, as being indefinite. The Examiner objected to certain phrases in the claims and the expression "basic amount". Claim 55 was objected to as being drawn to an insufficient specification since the specification did not describe a cosmetic base.

Applicants respectfully traverse these grounds of rejection since the amended claims are believed to properly define the

invention. Claims 40 and 44 have been amended to avoid the terms objected to by the Examiner and claim 55 has been cancelled. Therefore, the amended claims are believed to properly define the invention and withdrawal of these grounds of rejection is requested.

All of the claims remain rejected under 35 USC 103 as being obvious over the Japanese '057 reference. The Examiner was of the opinion that the claims were broad enough to read upon the reference compositions. The Examiner was of the opinion that Applicants' have admitted that the prior art has a use and the comprising language does not exclude ingredients and the method of treatment does not distinguish.

Applicants again traverse this ground of rejection since it is believed that the claims clearly distinguish from the reference cited by the Examiner and the term "comprising" has been changed to "consisting essentially of" which would exclude ingredients which would change the nature of the composition. For the Examiner's convenience, Applicants are submitting herewith a copy of the Japanese reference and English translation thereof and it is believed that the same clearly shows that claims distinguish from the reference. The translation supplied by the Patent Office was not deemed to be accurate. As can be seen from the single claim of the reference, the invention is directed to a soft drink characterized in that it contains among other ingredients, "some

brine" and brine is mostly similar to body fluid, blood serum and amnion liquid. An ideal soft drink can be produced by simply incorporating brine into the usual soft drink and while there are many definitions for brine, it usually refers to aqueous sodium chloride and not seawater. Moreover, the reference is not directed to a soft drink but, rather, is directed to a pharmaceutical cosmetic or hygienic composition. It does not include a soft drink to which 3 to 5% brine has been added. The Japanese reference in no way refers to seawater but merely brine which, as noted above, is usually aqueous sodium chloride. Therefore, it is not deemed that the reference in any way teaches Applicants' invention and there is no teaching whatsoever of any pharmaceutical hygienic or cosmetic use but merely as a soft drink. Therefore, withdrawal of this ground of rejection is requested.

In view of the proposed amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,  
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Enclosures

MARKED UP VERSION OF CLAIMS SHOWING CHANGES MADE

**Claim 40** (amended) A pharmaceutical, hygienic or cosmetic composition [comprising] consisting essentially of as active ingredients a combination of 3 to 95% by weight of seawater and [a basic amino acid found in its natural form, or its salts or esters or at least one of a plant and animal extract, or a phytoplankton extract form, in combination or admixed] 0.0001 to 10% by weight of at least one member of the group consisting of arginine, homoarginine, lysine, diamino pimelic acid, diamino valeric acid, carnitive, quanidine, homarizine,  $\alpha$ -methyl-m-tyrosine, N-methyl-aspartic acid, ornithine, sarcosine and salts thereof, algae extract, bacterial extracts, extracts of marine, thermal and lake mud and phytoplankton extract with an inert non-toxic carrier or excipient, appropriate for the said application.

**Claim 44** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt [basic amino acid] is [in a form] selected from the group consisting of hydrochloride salt, dihydrochloride salt, glutamate salt, pidolate salt, methyl ester and ethyl ester.

**Claim 45** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the member [basic amino acid] is arginine.

*Rule 126*  
**Claim 45** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt [of a basic amino acid] is arginine pidolate.

④日本国特許庁(JP)

⑤特許出願公開

## ⑥公開特許公報(A) 平4-126057

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⑨発明の名称 海水入り清涼飲料水

⑩特 願 平2-244103

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## 明細書

1. 発明の名称  
海水入り清涼飲料水

2. 発明の範囲  
海水の適量の水、糖類、果汁、砂糖、アミノ酸、ビタミン類、相溶エキス、炭酸水、香料、甘味料、乳酸及乳酸菌ハチミニコケン、酸性レアルタシ酸剤、酸味料、着色剤、安息香、乳化剤、繊維、植物、成分、アラギニン、カツキン、供給剤、カルボン酸混合増味に清涼飲料水

## 3. 発明の詳細な説明

- (1) 産業上の利用分野  
この発明は天然の海水を利用して清涼飲料水に関するもの。
- (2) 前段の技術  
最近になり清涼飲料水は体温・温度計の研究で海水入りの汗・利尿剤を水分、電解質をバランスよく補給するため各種ミネラルと混入する。

海水を吸収しない清涼飲料水が普及して万里するべく復讐のじき問題があれど、これに着目して作られた

(1) 発明が解決しようとする問題は天然や合成の单一のミネラルの組み合いで海水を吸収したり失なわれたり、水分や電解質を補給するだけではなくバランスのとれた各種ミネラルを同時に吸収する事が理想的な事は多くの医学者、及び栄養学者達のデータによる解説が付されてい可。

## (2) 問題と解決の手段

従来化学者たちにより解説されてゐる資料により海水は生命的の源泉であり海水の成分は天然ミネラルはよくして体液や血液、妊娠婦の羊水、人間の体に最も近い成分であることが解説されて、清涼飲料水に海水を混入する事により

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面倒なミネラルの配合をする事なく体の健康工へ為にし不自然で理想的な清涼飲料水を提供する事である。

## (1) 実施例

この発明の特徴として実施例においては説明する。基本的には3%～5%の海水を混入する。

尚に割合はあくまで、ひとつの一例であつてこれらは数値は限定される事なく必要に応じ種々増減可能である事はいうまでもない。

天然の海水の含むミネラル及び成分は多くの研究者に解明されているが、必要があればその上に添付すれば出る。

いずれにせよ生命の原である天然の海水を入れた清涼飲料水の今後は向かうるものである。

## (2) 発明の効果

この発明は以上述べた如く天然の海水と混入する事により次の様な優れた効果を有する。

- ① 本例でミネラル配合が不要となるのでコストが消滅である。
- ② バランスのとれたミネラルを自然に採取できるので栄養学上の価値は増加する。
- ③ 従来の清涼飲料水より体に浸透しやすくなる。
- ④ 海水と他の成分の組合せはF-Zでからなる料理にも利用出来る。
- ⑤ 今までの簡単な各種ミネラルを採取する事が可能となるので健康工にも丈夫な骨や体を創りこなす事が出来る。
- ⑥ 海水、各種ミネラルの働きにより他の成分の味を引き立てる事である。



Japanese patent laid-open No. 4-126057 (published on April 27, 1992)  
 Application No. 2-244103 (filed on September 17, 1990)  
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Title: Soft rink containing brine

Claims (single claim):

1. Soft rink, characterized in that following components are mixed under stirring in brine: suitable amount of water, sugars, fruit juice, protein, amino acid, vitamin, plant extract, carbonic acid, perfume, sweetener, lactic acid and lactic acid bacteria, mel, nicotinic acid, L-sodium glutamate, acidulant, thickener, colorant, stabilizer, emulsifier, fibers, fat, ash, arginine, caffeine, preservative and caramel.

Detailed description of Invention

(1) Field of Invention

This invention relates to use of natural brine to prepare a soft rink.

(2) Prior arts

It is recent tend to develop such soft drinks as possessing an osmotic pressure value which is similar to that of human body. Soft drinks also contain water and minerals so as to replenish electrolytes which are apt to be lost by hidrosis. However, known soft drinks have several demerits.

(3) Problems to be solved by the Invention

Many medical and nutritional data reveal that ideal soft drink must contain also a variety of minerals in addition to electrolytes lost by hidrosis.

(4) Means to solve the problems

Chemists revealed such a fact that a composition of brine is mostly similar to body fluid, blood serum and amnion liquid. Inventor founds that an ideal soft drink can be produced by simply incorporating brine into usual soft drink.

(5) Examples

Basically 3 to 5 % of brine is added to a soft drink, but this value is simply an example. The composition of brine is known. If necessary, applicant will submit the data. In any way, soft drink containing brine is novel.

(6) Advantages

Following advantages are obtained by mixing natural brine:

- 1) Cost can be reduced since complicated compounding of minerals is not necessary,
- 2) One can ingest a variety of minerals in balanced condition,
- 3) Osmosis become much easier than known soft drinks,
- 4) Stronger bone and body can be created,
- 5) Taste is improved because minerals in brine derive gust of other components.